

U.S. Patent Application No. 10/706,506
Amendment dated May 3, 2006
Reply to Office Action of February 3, 2006

Amendments to the Drawings:

Please add the attached sheet of drawing for Fig. 6.

Attachment: Sheet containing Fig. 6.

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested. Claims 1, 3-18, and 20-35 are pending in the application.

The amendment to the claims further defines what the applicant regards as his invention. In particular, claims 1, 21, 30-32, and 34 have been amended in response to the Examiner's comments as indicated below. Additionally, new Fig. 6 has been added along with an amendment of the brief description for this figure, based on the Examiner's comments, as discussed below. Full support for this amendment can be found throughout the present application, including the claims as originally filed, and for example, in Figs. 2 and 5, and pages 14-15, paragraph [0036] and pages 17-19, paragraphs [0041] to [0044]. Accordingly, no questions of new matter should arise and entry of this amendment is respectfully requested.

Response to Examiner's Comments

At page 2 of the Office Action, the Examiner stated that the amended claims have resulted in indefinite issues with the claims, that multiple embodiments have been disclosed, however, the claims endeavor to be all inclusive resulting in conflicts and enablement issues, and that regarding the placement of the non-mechanical cutting device, the drawings only show this device associated with the second elongated instrument. It is not clear if the Examiner intended to object to the claims, based on the allegations that the drawings do not show the non-mechanical cutting device being associated with the first elongated instrument, but the Examiner did not object to any of the claims with respect to this reason. For the following reasons, the applicant respectfully traverses this intended objection.

The applicant has amended the drawings by inserting new Fig. 6 which shows that the non-

mechanical cutting device is associated with the first elongated instrument. This is further explained below with respect to the Examiner's objection to the drawings.

Therefore, the claims and the specification should not be objected to for this reason.

Objection to the Specification

At page 2 of the Office Action, the Examiner objected to the disclosure because of the informality that on page 15, line 6, the laser is designated as 65, which conflicts with the armature which is designated also as 65 in line 7. For the following reasons, this objection is respectfully traversed.

By way of this amendment, the applicant has amended paragraph [0036] on pages 14-15 (line 6 on page 15) to recite "laser 60" instead of "laser 65."

Therefore, this objection should be withdrawn.

Rejection of claims 1, 3-18, 20-24, and 26-35 under 35 U.S.C. §112, second paragraph

At page 2 of the Office Action, the Examiner rejected claims 1, 3-18, 20-24, and 26-35 under 35 U.S.C. §112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner rejected the claims based on a number of reasons as indicated below. For the following reasons, this rejection is respectfully traversed.

Regarding claim 1, the Examiner alleged that the non-mechanical cutting device is recited as being radially displaced from the device, but in the pre-delivery configuration, the non-mechanical cutting device is not radially displaced from the device and only assumes the radially displaced position upon deployment. In response, the applicant has amended claim 1 to recite "at least one

non-mechanical cutting device adapted to be radially displaced from said rotational axle device upon deployment."

Also regarding claim 1, the Examiner alleged that structural cooperative relationships exist between elements of the claim (the collapsible plates being associated with one of the elongated instruments), but no structural cooperation is recited in the claim. In response, the applicant has amended claim 1 to recite "wherein said first collapsible plate or said second collapsible plate is associated with said first elongated instrument or said second elongated instrument." Support for this amendment can be found, for example, in Figs. 2-3 and 5, and pages 14-15, paragraph [0036], and pages 17-19, paragraphs [0041] to [0044].

Regarding claims 8, 11, 12, 20, and 22, the Examiner alleged that these claims are indefinite because the claims recite different configurations resulting in a distinct species for each. In response, the Examiner is respectfully directed to MPEP §806.04, where it is stated that "37 C.F.R. 1.141 provides that an allowable generic claim may link a reasonable number of species embraced thereby." Therefore, the applicant believes that it is not required that each claim be directed to only one species.

Regarding claim 21, the Examiner alleged that the claim is indefinite for reciting that the second elongated instrument includes the non-mechanical cutting device, but also recited that the non-mechanical cutting device is also separately advanced over the second instrument. In response, the applicant has amended claim 21 by deleting the phrase "adapted to include said non-mechanical cutting device and further."

Regarding claims 30-32 and 34, the Examiner stated that "said heart ventricle protecting device" in line 2 has no antecedent basis. In response, the applicant has amended claims 30-32 and 34 to recite "wherein said apparatus includes a heart ventricle protecting device."

Regarding claims 32 and 33, the Examiner alleged that these claims are indefinite as the protecting device has not been recited as having an inflation capability. In response, claim 32 has been amended to recite "wherein said apparatus includes a heart ventricle protecting device that is adapted to be inflated." Claim 33 depends on claim 32 and therefore, the amendment to claim 32 is sufficient to address the Examiner's concern regarding claim 33.

Therefore, this rejection should be withdrawn.

Objection to the Drawings

At page 4 of the Office Action, the Examiner objected to the drawings under 37 C.F.R. §1.83(a). Particularly, the Examiner stated that the drawings must show every feature of the invention specified in the claims and therefore the non-mechanical cutting device must be shown on the first elongated instrument or the feature must be deleted from the claims. For the following reasons, this objection is respectfully traversed.

The applicant has amended the drawings by inserting new Fig. 6, which is similar to Fig. 2, but shows that the non-mechanical cutting device 60 and its armature 65 is associated with or on the first elongated instrument 20.

The undersigned would appreciate discussing this matter with the Examiner by telephone should the Examiner have any questions regarding this matter.

Therefore, this objection should be withdrawn.

Allowable subject matter

At page 4 of the Office Action, the Examiner stated that claim 25 is allowed. The applicant appreciates the Examiner's indication that claim 25 is allowed. However, based on the amendment

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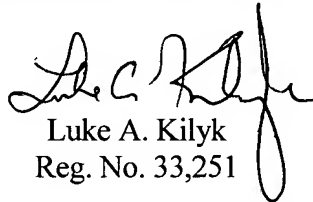
to the claims and applicant's arguments as indicated above, the applicant respectfully submits that claims 1, 3-18, 20-24, and 26-35 should also be allowed.

CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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